

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

VANCE S. ELLIOT,

No. C 11-80128 RS

Plaintiff,

V.

**ORDER DENYING WITHOUT
PREJUDICE APPLICATION TO
PROCEED IN FORMA PAUPERIS**

MARCUS LEWIS,

Defendant.

Plaintiff, however, also seeks leave to proceed *in forma pauperis*. Pursuant to 28 U.S.C. § 1915, a district court may authorize the commencement of a civil action *in forma pauperis* if the court is satisfied that the would-be plaintiff cannot pay the filing fees necessary to pursue the action.

1 28 U.S.C. § 1915(a)(1). The court may deny *in forma pauperis* status, however, if it appears from
2 the face of the proposed complaint that the action is frivolous or without merit. *O'Loughlin v. Doe*,
3 920 F.2d 614, 616 (9th Cir. 1990); *Tripathi v. First National Bank & Trust*, 821 F.2d 1368, 1370 (9th
4 Cir. 1987).

5 As presently drafted, the complaint is without merit in that it fails to set forth the basis for
6 any claim over which there would be federal jurisdiction. It is also dubious that plaintiff could
7 assert any viable claim against Lewis individually, even assuming there could be some basis to
8 contend that Benefits Management Corporation lacks legal grounds to freeze the account.
9 Accordingly, plaintiff's request to proceed *in forma pauperis* is denied without prejudice. If
10 plaintiff does not pay the filing fee within thirty (30) days of receiving this order, the Court will
11 dismiss the action without prejudice.

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13 Dated: 6/6/11

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15 RICHARD SEEBORG
16 UNITED STATES DISTRICT JUDGE
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United States District Court
For the Northern District of California

1 **THIS IS TO CERTIFY THAT A HARD COPY OF THIS ORDER WAS MAILED TO:**

2 Vance S. Elliott
3 640 Eddy Street, #218
4 San Francisco, CA 94109

5 DATED: 6/6/11

6 /s/ Chambers Staff

7 Chambers of Judge Richard Seeborg

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